

Calendar No. 1594

86TH CONGRESS }
2d Session }

SENATE }

REPORT
No. 1531

BETTY KEENAN

JUNE 8, 1960.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 5033]

The Committee on the Judiciary, to which was referred the bill (H.R. 5033) for the relief of Betty Keenan, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the bill is to pay to Betty Keenan, of Pittsburgh, Pa., the sum of \$499.06 as a refund of the amount deducted from her salary as a Federal employee for retirement purposes in the period from December 14, 1942, to January 31, 1948.

STATEMENT

The United States Civil Service Commission offers no definite recommendation on the bill, observing that the bill proposes to settle a disputed check question over which the General Accounting Office has jurisdiction.

The General Accounting Office does not recommend the enactment of the bill.

The Committee on the Judiciary of the House of Representatives in favorably reporting the bill has commented as follows:

Miss Betty Keenan served as an employee with the Treasury Department, Bureau of Internal Revenue, at Pittsburgh, Pa., from December 14, 1942, to January 30, 1948. During

that period \$454.95 was deducted from her salary and deposited in the retirement fund under the terms of the Civil Service Retirement Act. When Miss Keenan was separated from Government service on January 30, 1948, she had served over 5 years and was entitled to either a deferred annuity at the age of 62 or an immediate refund of her deductions with interest to the ending date of her service. The total amount to which she was entitled was \$499.06, which is the amount stated in this bill.

At the time of her separation Miss Keenan filed an application for a refund of retirement deductions. In her affidavit filed with this committee Miss Keenan stated that she never received the refund check, nor had she ever cashed the check. In this connection Miss Keenan states that she did not follow up her initial application for refund because the information given her by others was that she was not entitled to receive such a refund. Accordingly she was under the impression during the intervening years that she was not entitled to such a refund.

The report of the Civil Service Commission on the bill recited the fact that the first application for refund was made in January of 1948, and that a check was issued in the amount of \$499.06 and sent to the address on the application. The Commission's report also referred to Miss Keenan's request on April 1, 1958, for the refund, and noted that this claim was denied on the ground that a prior payment had been made. Miss Keenan has advised the committee that she learned that a check had been issued previously when her 1958 application was denied for that reason.

The Civil Service Commission detailed the facts in its report on the bill, but made no recommendation. The General Accounting Office questioned relief on this state of facts and stated that it did not recommend enactment.

This committee has carefully considered the facts of this case and has concluded that Miss Keenan is entitled to the relief provided for in H.R. 5033. The information presented to this committee has established that she acted in complete good faith, and believed for a period of years that she had not received her money due to the fact that her application for repayment had been denied. Under the circumstances of this case her only recourse is to appeal to the Congress. It is recommended that the bill be considered favorably.

The committee has been informed that an attorney has rendered services in connection with this claim, and therefore the bill carries the customary attorney's fee proviso.

The committee believes in light of the information before it that this is a proper matter for relief by private legislation and accordingly recommends the bill favorably.

Attached and made a part of this report are (1) a letter, dated August 10, 1959, from the U.S. Civil Service Commission, and (2) a letter, dated August 26, 1959, from the Comptroller General of the United States.

CIVIL SERVICE COMMISSION,
Washington, D.C., August 10, 1959.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, House Office Building.*

DEAR MR. CELLER: This refers further to your letter of March 16, 1959, relative to H.R. 5033, a bill for the relief of Betty Keenan.

This bill would authorize and direct the payment of \$499.06 from the Treasury to Miss Keenan. Such proposed payment would represent the proceeds of a civil service retirement refund check issued to Miss Keenan on May 3, 1948, which she contends she never received.

Miss Keenan served as a civilian employee with the Treasury Department, Bureau of Internal Revenue, at Pittsburgh, Pa., from December 14, 1942, to January 30, 1948. During this 5 years 1 month 17 days of service, she was subject to the Civil Service Retirement Act and the sum of \$454.95 was deducted from her salary and deposited in the retirement fund. At final separation on January 30, 1948, Miss Keenan had served over 5 years and was therefore entitled under the Retirement Act to either a deferred annuity beginning at age 62 or an immediate refund of her retirement deductions, with interest (\$44.11) to the ending date of service, totaling \$499.06.

Miss Keenan's refund application dated January 6, 1948, signed by her and witnessed by two other persons, was received in the Commission's Retirement Division April 1, 1948. Her claim was approved and on April 23, 1948, voucher No. 18454-R was certified to the Treasury Department authorizing it to draw a check for \$499.06 against the retirement fund in favor of Betty F. Keenan, 172 Plymouth Street, Pittsburgh, Pa., the address given on her refund application.

The returned copy of this voucher shows that check No. 67320941, drawn precisely as authorized as regards amount, payee, and address, was issued and forwarded to Miss Keenan on May 3, 1948. This check was never returned unclaimed. From the standpoint of the retirement system, Miss Keenan's refund had been settled in full and this case was considered closed.

However, about 10 years later, on April 1, 1958, our Retirement Division received a second claim from Miss Keenan for the refund. Since prior payment from the retirement fund had been made, this claim was disallowed and an explanatory notice sent to Miss Keenan.

Miss Keenan advised our Retirement Division on April 12, 1958, that she had no recollection or knowledge of the refund check being received by her. She showed her current address as 311 Oneida Street, Pittsburgh, Pa. She also listed her former address as 172 Plymouth Street, Pittsburgh, Pa., which was the same address as on her original 1948 application for refund of retirement deductions.

She was furnished with the necessary check description and other information which she would need to have the check traced by the Treasury Department and filed the required form with the Department on May 29, 1958. That Department obtained the status of the check in question which was reported to be paid and destroyed. On July 2, 1958, Miss Keenan was informed of this fact and also that her claim was not timely because it was not presented within the 6-year period of limitation governing such claims.

The Treasury Department next received a communication from a Member of Congress, acting in Miss Keenan's behalf, inquiring into this matter. The Department's letter of August 21, 1958, cited to the Congressman the advice already given Miss Keenan that her claim for the proceeds of the check was barred since it had not been presented by her to the General Accounting Office or the Treasurer of the United States within 6 years after the date of issuance of the check, as required by section 2 of the act of June 22, 1926, as amended (31 U.S.C. 122); and further, that informal advice had been received from the General Accounting Office that the item had been destroyed in accordance with the procedure established pursuant to the Federal Records Act of 1950 (44 U.S.C. 392-401), under which all paid checks, the negotiation of which has not been previously questioned, are destroyed approximately 8 years after the issue date. Under the circumstances, no further action could be taken in connection with Miss Keenan's claim and the Treasury Department considered the case closed.

The Commission offers no definite recommendation on H.R. 5033. The bill proposes to settle a disputed check question over which the General Accounting Office has jurisdiction. The payment it would authorize would come from money in the Treasury not otherwise appropriated and not from the retirement fund. The legislation would thus not directly affect retirement operations and is properly a matter for recommendation by the General Accounting Office.

The Bureau of the Budget advises there would be no objection to the submission of this report to your committee.

By direction of the Commission:

Sincerely yours,

ROGER W. JONES, *Chairman.*

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, August 26, 1959.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: We refer to our letter of August 14, 1959, to you, concerning H.R. 5033, which would authorize a refund of retirement deductions from the salary of Betty Keenan as a Federal employee during the period December 14, 1942, to January 31, 1948.

In our letter we said we had no information concerning the matter and therefore offered no recommendation on the bill. We assumed at the time that a full report thereon would be furnished by the Civil Service Commission. Subsequently, we were requested informally to develop the facts and to submit a recommendation on the merits of the bill.

We have obtained information from the Civil Service Commission which reflects that Miss Keenan's claim actually involves the proceeds of a check issued to her in 1948 for refund of retirement deductions covering the same period mentioned in the bill. We examined the Commission's files and have ascertained that Miss Keenan signed an application for refund of her retirement deductions on January 6, 1948,

showing her address as 172 Plymouth Street, Pittsburgh, Pa. A check was issued to her for \$499.06, covering the retirement deductions and mailed to her at the address listed on her application for refund. Some 10 years later she addressed the Civil Service Commission, again making claim for refund of retirement deduction but not mentioning the fact that she previously had filed an application for refund of such deductions. The signature on her 1948 application has been compared with her signatures on her 1958 correspondence and appear to be one and the same.

The Commission denied Miss Keenan's second claim and advised her of the issuance of a check in payment thereof in 1948, and that it had ascertained that such check had been paid and destroyed pursuant to law; also, that her claim was not timely because it was not presented within the 6-year period of limitation governing such claims.

It would seem that, since Miss Keenan presumably did not remember that she filed the 1948 application for refund of retirement deductions, she likewise may have forgotten her receiving and negotiating the check for \$499.06 issued to her to cover the amount of her retirement deductions. In any event, her failure to pursue her original claim until some 10 years later has resulted in the Government's not being able to definitely verify whether she received and negotiated the check—because of the destruction of the paid check as authorized by law. Further, if Miss Keenan had timely pursued her original application for refund of retirement deductions the Government could have determined whether the check issued to cover the retirement deductions had been forged and, if forged, have taken action to recover the amount thereof from the endorser.

We have verified the fact that the check, No. 67320941, dated May 3, 1948, issued for \$499.06 to Betty Keenan by Paul Banning under symbol No. 300, does not appear on our records as an outstanding item. Therefore, it must be presumed to have been paid in due course. The check was destroyed in accordance with section 3 of the act of July 7, 1943 (57 Stat. 381), as amended (44 U.S.C. 368).

There is no record of any claim having been filed in our Office by Miss Keenan either for refund of retirement deductions or for the proceeds of the check issued in payment thereof. As provided by title 31, United States Code, section 122, any claim for the proceeds of a paid check must be presented to our Office within 6 years from the date of issuance thereof.

In the light of the circumstances related herein we do not recommend enactment of the proposed legislation.

We suggest that in the event H.R. 5033 receives favorable consideration some reference be made in the wording thereof to the check issued to cover the refund of retirement deductions. For examples see H.R. 11797 of the 85th Congress.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

